

Remarks

Preliminary Matters

No claims were cancelled. None was added. The response is filed within the three month shortened statutory period and within the two month period to require an Advisory Action. If the Office disagrees with any of these statements, and a fee is required as a result, the Office is authorized to communicate that news to the Applicant and debit Deposit Account No. 07-1077.

Communication with Examiner Nguyen

After receipt of the Final Office Action earlier this month, the undersigned left a phone message with Supervising Examiner Gulakowski requesting a telephonic interview. Examiner Nguyen returned the message, and the undersigned requested a telephonic interview. Examiner Nguyen inquired if amendments to the claims were to be proposed. The undersigned answered no. The telephonic interview request was denied. However, before conversation ended, the undersigned, attempting to find out what was wrong with citing to indexed Internet locations within a specification, asked what format would be acceptable to Examiner Nguyen. The format seen in the amendment to the Specification was deemed acceptable. The undersigned then mentioned his plan to appeal. The conversation ended. This response is designed to address the concern about creating a format of identification of Internet locations which does not automatically generate hyperlinks by software owned or controlled by the Office, in order to place the application in condition for allowance or appeal.

Specification

References to Internet web sites on pages 4 and 6 have been amended in an acceptable manner to Examiner Nguyen, as discussed above.

Claim Rejections -- §103

Claims 1-5, 7-10, 12-14, and 16-20 have been rejected as being unpatentable over either Geer et al. (2002/0195592) or 6,972,098 (Viswanathan) in view of Lubnin et al. (U.S. Pub. 2003/0195293). Applicant respectfully traverses this new rejection,

made final, because it employs unfortunate and impermissible hindsight in the face of truly unexpected results. Applicant traverses this rejection.

The two primary references in this combination were used in the prior rejection, which the Office acknowledges was overcome by amendment and argument.

The use of the secondary reference in this combination employs hindsight because Lubnin et al. is specifically identified by the Applicant as a source of information about the claimed "non-ionic waterborne urethane polymer." See Page 4, Lines 17-22.

In the Guidelines to the Office in the Federal Register Vol. 72, No. 195, 57526 et seq. (October 10, 2007), Under Secretary Jon Dudas informed the Examiners that "the key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious." (at p. 57528, third column)

The Guidelines then continue with seven different rationales in the succeeding pages, addressed and refuted here.

(A) The prior art elements combined according to known methods DID NOT YIELD PREDICTABLE RESULTS. (See Table 2 for a time to coagulation of at least 90 times better performance).

(B) Simple substitution of one known element for another DID NOT YIELD PREDICTABLE RESULTS.

(C) There was no use of a known technique to improve similar products in the *same* way. The >90 times improvement using non-ionic waterborne urethane polymer was TOTALLY UNEXPECTED.

(D) Applying a known product ready for improvement DID NOT YIELD PREDICTABLE RESULTS.

(E) There was no reasonable expectation of success when choosing from a finite number of identified, predictable solutions, because nothing from any of the three references would lead one to expect a >90 times improvement when using non-ionic waterborne urethane polymer.

(F) There was no predictability to one of ordinary skill in the art that a non-

ionic waterborne urethane polymer would yield >90 times improvement in time to coagulation results, even if there were design incentives or market forces which would prompt use of variations in a known field.

(G) There is no teaching, suggestion, or motivation in the prior art which would have led one of ordinary skill to modify either primary reference to substitute a non-ionic waterborne urethane polymer from the secondary reference.

Even if any of these seven rationales establishes a *prima facie* rejection for obviousness, Applicant's reply must be considered by the Office, in respect of Rebuttal Evidence. (at p. 57534)

"For example, in the case of a claim to a combination, applicants may submit evidence or argument to demonstrate that ... [3] the results of the claimed combination were unexpected."

What could be more unexpected than a result that is 90 times better?

Applicant demonstrates in Table 2 of his application the dramatic and unexpected superiority of a *non-ionic* waterborne urethane polymer as compared with an *ionic* waterborne urethane polymer. Applicant compared Permax 220 *non-ionic* waterborne urethane polymer with Bayhydrol 110 *ionic* waterborne urethane polymer. Time to coagulation was more than 90 days using Permax 220 non-ionic waterborne polymer, as compared with less than one day using Bayhydrol 110.

Besides 90 days being 9000% better than less than one day, empirically, the "shelf life" of coatable mixtures of the present invention are 9000% longer, resulting from the use of *non-ionic* waterborne urethane polymers.

According to the results of Table 2, the coatable mixtures of the present invention would still be coatable because of no coagulation for at least the length of time the Office allowed Applicant to respond this Office Action. That these dispersions remain dispersed for a calendar quarter is truly and utterly unexpected when the comparison lasts merely less than one day. Applicant has rebutted the Office's assertion of obviousness.

Conclusion

Claims 1-5, 7-10, 12-14, and 16-20 are patentable and entitled to a Notice of Allowance. If there are any remaining issues that block the issuance of a Notice of Allowance, the Office is invited to contact the undersigned.

Respectfully submitted by:

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Date

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